



MD09017-AC

United States
Department of
Agriculture

Office of
Administrative
Law Judges

Hearing Clerk

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax

CERTIFIED RECEIPT REQUESTED

January 11, 2012

Zoological Consortium of Maryland, Inc.
d/b/a Catoctin Wildlife Preserve and Zoo
13109 Catoctin Furnace Road
Thurmont, MD 21788

Dear Respondent:

Subject: Zoological Consortium of Maryland, Inc, a Maryland corporation, d/b/a
Catoctin Wildlife Preserve and Zoo, Respondent-
12-0165

Enclosed is a copy of the Order to Show Cause which has been filed under the Animal Welfare Act. Also enclosed is a copy of the Rules of Practice which govern the conduct of these proceedings.

The rules specify that you may represent yourself or obtain legal counsel. You have 20 days from receipt of this letter to file with the Hearing Clerk an original and three copies of your written and signed Answer to the Complaint. Your Answer must set forth any defense you wish to claim and must admit or deny each allegation as set forth in the Complaint. In addition, your Answer may include a request for an oral hearing. Failure to file an Answer or filing an Answer which does not deny the material allegations of the Complaint shall constitute an admission of those allegations and waive your right to an oral hearing. If a hearing is required, it will be heard and decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

It is your responsibility to notify this office of any change in address or telephone numbers. Failure to do so may result in a judgment being entered against you without your knowledge. Your Answer, as well as any other pleadings or requests regarding this proceeding should be submitted in quadruplicate to the Hearing Clerk, OALJ, Room 1031, South Building, United States Department of Agriculture, Washington, DC 20250-9200.

All questions regarding the possible settlement of this case should be directed to the attorney whose name and telephone number appear on the last page of the Complaint.

Sincerely,

L. Eugene Whitfield
Hearing Clerk

Enclosure(s)

CC: Colleen Carroll-OGC
 Ruth Ann McDermott-APHIS
STH: 01/11/2012

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 12-0165
)
ZOOLOGICAL CONSORTIUM OF)
MARYLAND, INC., a Maryland corporation,)
doing business as CATOCTIN WILDLIFE)
PRESERVE AND ZOO,)
)
Respondent.) COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the "Act" or "AWA"), and the regulations issued pursuant thereto (9 C.F.R. § 1.1 et seq.) (the "Regulations"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS"), issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Zoological Consortium of Maryland, Inc., is a Maryland corporation doing business as Catoctin Wildlife Preserve and Zoo ("Catoctin Zoo"). The registered agent for respondent Catoctin Zoo is Richard Hahn, 13019 Catoctin Furnace Road, Thurmont, Maryland 21788. At all times mentioned herein, respondent Catoctin Zoo was an exhibitor and a zoo, as those terms are used in the Act and the Regulations, and held Animal Welfare Act license 51-C-0034.

SIZE, GRAVITY, COMPLIANCE HISTORY AND GOOD FAITH

2. Respondent Catoctin Zoo owns and operates a large zoo, housing between 380 and 410 exotic and wild animals, which it exhibits to the public. The gravity of the violations herein is great. They include repeated noncompliance with the Regulations and Standards governing veterinary care, handling, housing and husbandry, documented on multiple occasions since January 2007. Respondent Catoctin Zoo has a history of violations. *In re Zoological Consortium of Maryland, Inc., and Richard Hahn*, 47 Agric. Dec. 1276 (1988)(Decision and Order suspending

respondent's license and assessing a \$1,000 civil penalty for violations of Regulations).

PREVIOUS CEASE-AND-DESIST ORDER

3. Respondent Catoctin Zoo was previously ordered by the Secretary to cease and desist from violating the Act and the Regulations and Standards:

Respondents shall comply with each and every provision of the Animal Welfare Act, 7 U.S.C. ss 2131-2156, and the regulations and standards issued thereunder, 9 C.F.R. ss 1.1-3.142, and shall cease and desist from any violation thereof. In particular, respondents, their agents and employees, directly or through any corporate device, shall cease and desist from:

1. Failing to construct and maintain structurally sound indoor and outdoor facilities as required by 9 C.F.R. s 3.125;
2. Failing to provide adequate ventilation for indoor housing facilities as required by 9 C.F.R. s 3.76;
3. Failing to maintain interior building surfaces in indoor housing facilities that are substantially impervious to moisture as required by 9 C.F.R. s 3.76;
4. Failing to maintain primary enclosures in good repair so as to protect nonhuman primates from injury as required by 9 C.F.R. s 3.78;
5. Failing to remove excreta from primary enclosures as required by 9 C.F.R. s 3.81;
6. Failing to maintain facilities for animals other than nonhuman primates so as to protect the animals from injury as required by 9 C.F.R. s 3.125;
7. Failing to clean primary enclosures so as to protect the animals from contamination and injury as required by 9 C.F.R. s 3.131; and
8. Failing to store supplies of food so as to protect them from infestation or contamination by vermin as required by 9 C.F.R. s 3.75.¹

ALLEGED VIOLATIONS

4. APHIS conducted unannounced inspections of respondent's facilities, records and animals on January 24 and June 12, 2007, February 27, July 31, and October 6, 2008, January 30, 2009, June 30, 2010, and August 1, 2011. APHIS documented noncompliance with the Regulations and Standards on each of these occasions.

5. On January 24, 2007, respondent failed to meet the minimum Standards for housing

¹*In re Zoological Consortium of Maryland, Inc., and Richard Hahn*, 47 Agric. Dec. 1276,1287-88 (1988).

facilities (9 C.F.R. § 3.125(a)), and specifically, boards, poles and roof beams of the enclosure housing a camel were in disrepair, diminishing the structural strength of the enclosure, in willful violation of the Regulations. 9 C.F.R. § 2.100(a).

6. On or about June 12, 2007, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

- a. Respondent failed to adequately ventilate indoor housing facilities for nonhuman primates (Tonkean macaques). 9 C.F.R. § 3.76(b).
- b. Respondent provided insufficient lighting in enclosures housing nonhuman primates (Tonkean macaques). 9 C.F.R. § 3.76(c).
- c. Respondent failed to develop and follow a plan for adequate environmental enrichment for nonhuman primates (African Green monkeys), and specifically, the enclosure housing these animals had no platform for resting or taking cover, insufficient structures to stimulate species-typical behavior and enhance psychological well-being. 9 C.F.R. § 3.81(b).
- d. The fencing for the enclosure housing Nilgai and zebras is detached from its posts, and bowed outward. 9 C.F.R. § 3.125(a).
- e. There was inadequate shelter from sunlight for animals housed in the llama and huarizo enclosure. 9 C.F.R. § 3.127(a).
- f. There was no shelter from inclement weather for animals housed in the domestic animal feeding area. 9 C.F.R. § 3.127(b).
- g. There was insufficient space provided for three sun bears housed in a single enclosure. 9 C.F.R. § 3.128).
- h. The trailer housing goats and donkeys had an excessive amount of feces. 9

C.F.R. § 3.131(a).

7. On or about December 24, 2007, respondent failed to handle a camel as carefully as possible, and specifically respondent handled a camel in a manner that allowed the animal to escape and to travel approximately 1/4 mile away from the facility, in willful violation of the Regulations.

9 C.F.R. § 2.131(b)(1).

8. On or about December 24, 2007, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to enclose its facilities by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

b. The gate for an enclosure housing a camel was inadequate, and permitted the animal to exit the enclosure. 9 C.F.R. § 3.125(a).

9. On or about February 27, 2008, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to establish and maintain an effective pest control program in enclosures housing nonhuman primates (colobus, owl monkey and vervet). 9 C.F.R. § 3.84(d).

b. Enclosures housing kangaroo and jaguar were in disrepair. 9 C.F.R. § 3.125(a).

c. There was no shelter from inclement weather available to forty-three animals housed in rear hoofstock compound, and inadequate shelter from inclement weather available to forty-eight other animals housed in deer enclosure. 9 C.F.R. § 3.127(b).

10. On or about July 31, 2008, respondent failed to provide adequate veterinary care to

willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to employ a sufficient number of adequately trained employees. 9 C.F.R. § 3.132.

14. On or about January 18, 2009, respondent failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent injuries and the availability of emergency care, and adequate guidance to personnel involved in the care and use of animals regarding handling and tranquilization, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(b)(2), 2.40(b)(4).

15. On or about June 30, 2010, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. The rear fence of the enclosure housing domestic hoofstock is in disrepair and is leaning, indicating loss of structural strength. 9 C.F.R. § 3.125(a).

16. On or about August 1, 2011, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to clean primary enclosures for nonhuman primates as required, and specifically, failed to adequately clean the wooden resting perch for *Orcheata macaques*, which perch was excessively soiled. 9 C.F.R. § 3.84(a).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 *et seq.*). Failure to file

an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order that respondent cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against respondent in accordance with section 19 of the Act (7 U.S.C. § 2149), and suspending or revoking AWA license 51-C-0034.

Done at Washington, D.C.
this 23rd day of Dec. 2011


Acting Administrator
Animal and Plant Health Inspection Service

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